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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,235	08/28/2001	John E. Burton	053990-0027	5285

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EXAMINER

SEMBER, THOMAS M

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 09/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/941,235

Applicant(s)

BURTON, JOHN E.

Examiner

Thomas M Sember

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The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 U.S.C. § 102

I. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

II. Claims 1-3 and 6-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Denley ('343). Denley '343 discloses an adjuster housing 50 having an interior portion. An adjustment gear 112 is journaled at least partially in the interior portion of the adjuster housing. The adjustment gear 112 has an interior surface with a drive portion and an exterior surface with a toothed portion. A ball stud 42 has a threaded portion and a driven portion. At least a portion of the ball stud passing through the interior surface of the adjustment gear 112 such that the driven portion of the ball stud is selectively engageable to the drive portion of the interior surface of the adjustment gear. An input shaft 70 extends from the housing. The input shaft 70 has a bevel gear 84 at an end thereof. The bevel gear 84 is at the end of the input shaft in engagement with the toothed portion of the adjustment gear 112. The device further includes a clutching mechanism 94.

Claim Rejections - 35 U.S.C. § 102

III. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 6-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmitt ('780). Schmitt ('780) discloses an adjuster housing 38 having an interior portion. An adjustment gear 64 is journaled at least partially in the interior portion of the adjuster housing. The adjustment gear 64 has an interior surface with a drive portion and an exterior surface with a toothed portion. A ball stud 30 has a threaded portion and a driven portion. At least a portion of the ball stud passing through the interior surface of the adjustment gear 64 such that the driven portion of the ball stud is selectively engageable to the drive portion of the interior surface of the adjustment gear. An input shaft 28 extends from the housing. The input shaft 28 has a bevel gear 62 at an end thereof. The bevel gear 62 is at the end of the input shaft in engagement with the toothed portion of the adjustment gear 64. The device further includes a clutching mechanism 80.

Claim Rejections - 35 U.S.C. § 103

IV. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the

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subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

V. Claims 4-5 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over (Denley '343 or Schmitt '780) in view of Denley '287. (Denley '343 or Schmitt '780) discloses the claimed invention except for the teaching that a gasket is placed on the an exterior surface of the housing and an O'ring surrounding at least a portion of the exterior surface of the ball stud. Denley '287 teaches a gasket is placed on the an exterior surface of the housing and an O'ring 60 surrounding at least a portion of the exterior surface of the ball stud. It would have been obvious to one skilled in the art at the time the invention was made to modify the headlamp assembly of (Denley '343 or Schmitt '780) to include a gasket on an exterior surface of the housing and an O'ring surrounding at least a portion of the exterior surface of the ball stud as taught by Denley '287 in order to efficiently seal the housing from moisture and debris.

Response to Arguments

1. Applicant's arguments filed on 08/28/01 have been fully considered but they are not persuasive. The applicant argues that that Denley '343 and Schmitt fail to teach "that "the driven portion of the ball stud is selectively engageable to the drive portion of the interior surface of the adjustment gear." The examiner disagrees. As broadly claimed the ball stud 30 of Denley '343 and the ball stud 30 of Schmitt ' 980 can be "selectively engageable" because the ball stud can be removed from their respective adjustment gears (112 of Denley '343) and (64 of Schmitt '980).

The applicant further argues that Denley '343 and Schmitt '980 fail to teach a clutching mechanism. The examiner agrees that Denley '343 and Schmitt '980 do not call elements 94 and 80 clutching elements but they serve the same clutching function as applicant's clutching mechanism. Thus, elements 94 and 80 are properly interpreted as clutching mechanisms.

Conclusion

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas M. Sember whose telephone number is (703) 308-1938. The examiner can normally be reached on Monday - Thursday from 8:00 AM - 5:00 PM. The examiner can also be reached on alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea, can be reached at (703)-305-4939. The fax phone number for this group are (703) 872-9318 for regular communications and (703)-872-9319 for after-final communications.

Any inquiries of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 305-0956.



Thomas M. Sember

Primary Examiner

9/18/03